

ORDINANCE NO. 11-12

ORDINANCE GRANTING A VARIANCE PERMIT TO ALLOW A TOTAL OF NINE OCCUPATIONAL LICENSES, WHERE NO MORE THAN TWO ARE PERMITTED, AND TO ALLOW A LANDSCAPE BUFFER OF 4 FEET FOR A DISTANCE OF 30 FEET ON THE SOUTH ENTRANCE OF THE PARKING LOT, WHERE 7 FEET ARE REQUIRED, CONTRA TO HIALEAH CODE §§ 98-778(2) AND 98-787, ON PROPERTY ZONED RO (RESIDENTIAL OFFICE DISTRICT). **PROPERTY LOCATED AT 383 WEST 34 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board at its meeting of February 9, 2011 recommended approval of this ordinance; and

WHEREAS, Petitioner is permitted to license two occupations for each address for a total of four licensed occupations permitted at the Property; and

WHEREAS, Petitioner proffers a declaration of restrictive covenants to restrict the additional five occupations licensed to operate only one each weekday, exclusive one of another, in addition to the four permitted occupations, to which the City accepts.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The below-described property is hereby granted a variance permit to allow a total of nine occupational licenses, where no more than two are permitted, and a variance permit to allow a landscape buffer of 4 feet for a distance of 30 feet on the south entrance of the parking lot, where 7 feet are required, contra to Hialeah Code §§ 98-778(2) and 98-787, which provide in pertinent part: “No more than two occupational licenses shall be issued for each address...”, and “All developed lots within the RO residential office district shall comply with city landscaping requirements, including irrigation.”; the minimum standards in the City of Hialeah Landscape Manual being

“(D)(7) Parking lot buffers. All parking lots adjacent to a right-of-way or private street shall be screened by a continuous planting and/or three (3)-foot high wall within a seven (7)-foot landscaped strip incorporating said planting and/or wall on private property.”, respectively. Property located at 383 West 34 Street, Hialeah, Miami-Dade County, Florida, zoned RO (Residential Office District) and legally described as follows:

LOT 20, BLOCK 5, FIRST ADDITION TO CAROLE ANNE PARK, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 52, AT PAGE 36, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 5: Effective Date.

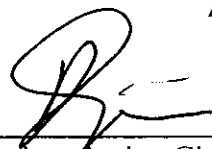
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 8th day of March, 2011.



Carlos Hernandez
Council President

Attest:

Approved on this 11th day of March, 2011.

David Concepcion, Acting City Clerk

Mayor Julio Robaina

Approved as to form and legal sufficiency:



William M. Grodnick, City Attorney

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Ordinance was adopted by a 6-0 vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Hernandez and Yedra voting "Yes", Councilmember Gonzalez absent.



CFN 2011R0379481
DR Bk 27717 Pgs 3091 - 3092; (2pgs)
RECORDED 06/10/2011 08:48:09
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

Prepared by and return to:

City of Hialeah
Planning Division
501 Palm Avenue, Second Floor
Hialeah, FL 33010

DECLARATION OF RESTRICTIVE COVENANTS

(I) (WE), Jorge L. Acevedo

being the owner(s) of lands described herein: Lot 20, Block 5, of First Addition to Carole Anne Park, according to the plat thereof, as recorded in Plat Book 52, at Page 36, of the Public Records of Miami-Dade County, Florida.

Property located at 383 West 34 Street, Hialeah, Florida

The folio number is 04-3106-037-0200

make the following Declaration of Restrictive Covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida.

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. There will be four occupational licenses issued for physicians who will operate on a permanent basis at the property. The additional five occupational licenses will be issued for medical specialty practice areas. Each of the licensed specialty practice area physicians will be restricted to operate only once per week such that there are only five licensed professionals permitted to practice on the property each week day. No specialty practice area physician will be permitted to practice on Saturday. Parking on swale area is prohibited and it shall be the owner's responsibility to enforce this restriction. No MRI vehicle is permitted in parking lot at any time.
2. The doctors' office will operate from Monday through Friday between the hours of 8:00 A.M. and 6:00 P.M. and Saturdays between the hours of 8:00 A.M. and 1:00 P.M.
3. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.
4. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive

0.2
1.12

Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Miami-Dade County, Florida, this _____ day of February, 2011.

Signed, sealed and delivered in the presence of:

Witness

Typed/Printed Name: Helien Perez

Witness

Typed/Printed Name: Harold Garcia

Jorge Acevedo

The foregoing instrument was acknowledged before me on this 3 day of ~~February~~ ^{June}, 2011, by Jorge Acevedo, who is personally known to me or has produced the following D.L. # A213-432-65-43-48 identification and did (did not) take an oath and attest to the truth and accuracy of the representations contained herein.

This document was prepared by the City of Hialeah, Florida.

Notary Public

Typed/Printed Name: Carmen B. Hernandez

Commission No.:

